

In re ) Fair Hearing No. 11,390  
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Appeal of )

The petitioner appeals the decision by the Department of Social Welfare reducing her ANFC benefits. The issues are whether two of the petitioner's children, who are recipients of survivors benefits from the Social Security Administration, must be included in the petitioner's ANFC household and whether that income must then be deemed available to the entire household in the computation of the household's ANFC benefits.

1. The petitioner is the single mother of four minor children all of whom reside with her. She had been receiving \$799.00 per month in ANFC benefits for the support of the four children.

2. In December of 1991, the father of her two youngest children (twins) died. Recently the petitioner began to receive a total of \$740.00 per month in Social Security survivor's benefits for the twins.

3. On July 7, 1992, the petitioner was notified that the \$740.00 was being counted as unearned income to the entire five person assistance group resulting in a reduction

of her ANFC income to \$59.00 per month.

4. The petitioner argues that her twins and their Social Security income should be excluded from her ANFC household because she must use the Social Security funds solely for the benefit of her twins and is required as the representative payee to provide the Social Security Administration with an accounting of how that money is spent.

ORDER

The Department's decision is affirmed.

REASONS

Over the past several years the Board has considered dozens of appeals concerning the provisions in the regulation, adopted pursuant to the 1984 DEFRA amendments to the federal ANFC statutes, mandating the inclusion in an ANFC household of all siblings, and parents of those siblings, who reside with ANFC-eligible children, and "deeming the income of those siblings as available to the entire ANFC household". See Fair Hearing Nos. 6648 et al and W.A.M. 9 2242 (attached). This case is indistinguishable from Fair Hearing No. 7996 involving Social Security payments and which relied on the reasoning in Fair Hearing No. 6648. That decision agreed with the arguments now put forth by the petitioner, but was subsequently reversed by the decision of the U.S. Supreme Court in Bowen v. Gilliard, 483 US 587, 97 L. Ed 2d 485, 107 S.Ct 3008 (1987).

It is clear in this matter that the Department has correctly followed what the United States Supreme Court has subsequently upheld as a valid procedure for determining the ANFC eligibility of individuals in the petitioner's circumstances. Therefore, the Board has no choice but to affirm the Department's decision as consistent with its own valid regulation at W.A.M. § 2242. 3 V.S.A. § 3091(d) and Fair Hearing Rule No. 19.

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